

the protective force during an incident to participate in exercises at least annually.

(d) *Records* of each training exercise shall be prepared for management review and planning and retained for a period of 1 year, unless a longer retention period is specified by other requirements.

(9) *Firearms Qualification Standards.*

(a) No persons shall be authorized to carry a firearm as a security police officer until the responsible Head of the Field Organization is assured that the individual who is to be armed is qualified in accordance with firearms standards.

(b) As a minimum, each security police officer shall meet the applicable firearms qualification standards every 6 months. The local DOE Operations Office shall permit the qualification to be accomplished any time prior to the actual 6 month requalification date. The actual qualification date will serve to establish a new requalification date for firearms qualification.

(c) The DOE expects that protective force personnel will maintain firearms proficiency on a continuing basis. Therefore, in the case of a headquarters or field audit, or other situation directed by the Head of the Field Element, a security police officer may be required to demonstrate the ability to meet qualification standards. Failure to meet the performance standard will be treated as if the individual failed the first attempt during routine semiannual qualification. In this event the requirements of paragraphs (h), (i) and (j) of part 9 of appendix B subpart B will be followed.

(d) Each security police officer shall qualify with all weapons required by duty assignment. Each security police officer shall be required to qualify with each firearm as indicated in the DOE requirements of the DOE qualification courses.

(e) Each security police officer shall qualify with the same type of firearm and ammunition equivalent in trajectory and recoil as used while on duty. This ammunition shall be listed on the DOE approved ammunition list.

(f) Each security police officer shall be given a basic principles of firearms safety presentation prior to any range activity. This does not require that a firearms safety presentation be given for each course of fire, but does require that prior to the start of range training or qualification for a given period (e.g., initial qualification, semiannual (every 6 months) qualification, training or range practice) each security police officer shall be given a range safety presentation.

(g) Only courses of fire approved by the Office of Safeguards and Security (SA-10) as standardized DOE qualification courses, shall be used for firearms qualification.

(h) Security police officers shall be allowed two initial attempts to qualify semiannually. A Range Master or other person in

charge of the range will state to security police officer(s) on the firing line that "THIS IS A QUALIFYING RUN." Once this statement is made by the Range Master or person in charge, "this qualifying run" will constitute a qualification attempt. Each security police officer will be provided two qualifying attempts. The security police officer shall qualify during one of these attempts.

(i) Failure to qualify shall result in suspension of a security police officer's authority under section 161.k. of the Atomic Energy Act of 1954, as amended, to carry firearms and to make arrests. The security police officer will then enter a standardized, remedial firearms training program developed by the Central Training Academy and approved by DOE. The remedial firearms training program will be a combination of basic weapon manipulation skills, firearms safety, and an additional segment of time tailored to provide the security police officer with the necessary individual training to afford a reasonable opportunity to meet the firearms qualification standards.

(j) Any security police officer who, upon completion of the remedial training course, fails to qualify after two subsequent, additional attempts shall lose the security police officer status and his authority to carry firearms and to make arrests under section 161.k. of the Atomic Energy Act of 1954.

(k) Any security police officer who requires remedial training on three (3) consecutive semiannual qualification periods, with the same firearm, shall lose security police officer status.

(l) An appropriate DOE record shall be maintained for each security police officer who qualifies or who attempts to qualify. Records will be retained until 1 year after separation of a protective force officer from security police officer duties, unless a longer retention period is specified by other requirements. A supervisor or the training officer will be designated in writing as the individual authorized to certify the validity of the scores.

PART 1047—LIMITED ARREST AUTHORITY AND USE OF FORCE BY PROTECTIVE FORCE OFFICERS

GENERAL PROVISIONS

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Department of Energy

§ 1047.4

AUTHORITY: Sec. 2201, Pub. L. 83-703, 68 Stat. 919 (42 U.S.C. 2011 et seq.); Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

SOURCE: 50 FR 30929, July 31, 1985, unless otherwise noted.

GENERAL PROVISIONS

§ 1047.1 Purpose.

The purpose of this part is to set forth Department of Energy (hereinafter “DOE”) policy and procedures on the exercise of arrest authority and use of force by protective force personnel.

§ 1047.2 Scope.

This part applies to DOE and DOE contractor protective force personnel armed pursuant to section 161.k. of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) to protect nuclear weapons, special nuclear material, classified matter, nuclear facilities, and related property.

§ 1047.3 Definitions.

(a) *Act* means section 161.k. of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2201.k.).

(b) *Arrest* means any act, including taking, seizing or detaining of a person, that indicates an intention to take a person into custody and that subjects the person to the control of the person making the arrest.

(c) *Citizen's Arrest* means that type of arrest which can be made by citizens in general and which is defined in the statutory and case law of each state.

(d) *Contractor* means contractors and subcontractors at all tiers.

(e) *LLEA* means local law enforcement agencies: city, county; and state.

(f) *Offender* means the person to be arrested.

(g) *Protective Force Officer* means any person authorized by DOE to carry firearms under section 161.k. of the Atomic Energy Act of 1954.

(h) *Special Nuclear Material* (SNM) means: (1) Plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which DOE, pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, determines to be special nuclear material, but does not include source material; or (2) any material artifi-

cially enriched by any of the foregoing, but does not include source material.

§ 1047.4 Arrest authority.

(a) Under the Act, the authority of a DOE protective force officer to arrest without warrant is limited to the performance of official duties and should be exercised only in the enforcement of:

(1) The following laws only if property of the United States which is in the custody of the DOE or its contractors is involved:

(i) *Felonies*: (A) Arson—18 U.S.C. 81—(only applicable to “special maritime and territorial jurisdiction of the United States” as defined by 18 U.S.C. 7).

(B) Building or property within special maritime and territorial jurisdiction—18 U.S.C. 1363—(only applicable to “special maritime and territorial jurisdiction of United States” as defined by 18 U.S.C. 7).

(C) Civil disorder—18 U.S.C. 231.

(D) Communication lines, stations or systems—18 U.S.C. 1362.

(E) Concealment, removal or mutilation generally—18 U.S.C. 2071.

(F) Conspiracy—18 U.S.C. 371—(violation of this section is a felony if the offense which is the object of the conspiracy is a felony).

(G) Destruction of motor vehicles or motor vehicle facilities—18 U.S.C. 33.

(H) Explosives—18 U.S.C. 844(f).

(I) Government property or contracts—18 U.S.C. 1361—(violation of section is a felony if property damage exceeds \$100).

(J) Military, naval or official passes—18 U.S.C. 499—(pertains to forging or altering official passes).

(K) Personal property of the United States—18 U.S.C. 2112.

(L) Public money, property, or records—18 U.S.C. 641—(violation of section is a felony if the property value exceeds \$100).

(M) Sabotage—18 U.S.C. 2151, 2153–2156.

(N) Violation under Physical Security Convention—18 U.S.C. 831.

(ii) *Misdemeanors*: (A) Conspiracy—18 U.S.C. 371—(violation of section is a misdemeanor if the offense which is the object of the conspiracy is a misdemeanor).